

**Testimony to the Montana Senate Judiciary Committee
Opposing Senate Bill 223 – Revise Hate Crimes Law
January 22, 2009
By Richard W. Bennett, Bozeman, Montana**

SENATE JUDICIARY
EXHIBIT NO. 14
DATE 1/22/09
BILL NO. SB223

Chairman Perry and members of the Senate Judiciary Committee,
Thank you for the opportunity to testify in opposition to Senate Bill 223, which would grant special protections to homosexuals. All Montanans should be equally protected by the law, and we should not select certain groups (homosexuals) for special treatment.

Montana citizens are guaranteed equal protection under the law regardless of age, sex, race, religion, or national origin, as specified in the United States constitution's 14th Amendment and the Montana Constitution. So-called "hate crimes" laws now being considered would create new classes of victims-including those who engage in homosexual behavior-with special rights not extended to all Americans, a notion completely at odds with the Constitutional guarantee of equal protection

Webster's New World Dictionary defines "bias" as mental leaning or inclination. Since this bill attempts to define certain crimes against certain groups as "bias-based," then this bill should be called "thought" crimes law. The purpose of so-called "hate crimes" laws is to increase punishment for the thoughts a person may have been having while committing a crime, meaning such laws are really thought crimes laws.

Increasing punishment for a criminal's thoughts could quickly be expanded to outlawing the expression of other thoughts that legislators and activist judges, under pressure from homosexual activists, list as "hateful," including sincere religious convictions and Bible-based moral values such as opposition to homosexual behavior

Similar so-called "hate crimes" laws already have been used to legally prosecute and silence Christians for publicly opposing homosexual behavior in Western Europe, Canada, and even in Philadelphia.

- In Canada, Christian youth pastor Stephen Boissain was convicted by the Alberta Human Rights Commission (AHRC) for hate speech after he published a letter to the editor in the Red Deer Advocate expressing his disagreement with the radical homosexual agenda. The AHRC ordered him to pay \$7,000 in fines, and to refrain

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from ever again making "disparaging" remarks about homosexuals, in any venue whatsoever. Mr. Boissoin has also had to resign his job ministering to at-risk youth because of the adverse publicity his case brought to the Christian charity that employed him; as well, he has had to carry the cost of his defense himself.¹

- In Philadelphia, the City of Brotherly Love, 11 Christian protesters (ranging in age from 17 to 72) were charged under a Pennsylvania "ethnic intimidation" law on Oct. 10, 2004. The defendants were charged for peacefully protesting at a "gay pride" rally and faced imprisonment of 47 years and huge fines before their case was dismissed.²

Sexual orientation "hate crimes" are a manufactured crisis. According to FBI data (Crime in the United States, 2004, and Hate Crime Statistics, 2004), anti-homosexual "hate crimes" account for a miniscule fraction of total crimes in the United States. Of the 16,137 murders that occurred in 2004, one (.006 percent) was classified as a "bias motivation" because of the sexual orientation of the victim. Of the 854,911 aggravated assaults in 2004, 181 (.02 percent) were classified as bias motivation because of the victim's sexual orientation.³

California probably has the most extensive "hate" crimes laws in the nation. However, those laws are obviously not equally enforced. After 6.3 million California voters approved amending their constitution to define marriage as between one man and one woman, homosexual activists targeted African Americans (who overwhelmingly supported the amendment) with racist epithets⁴ and churches with anti-religious bigotry. The acts included setting off fire alarms during services, rushing the pulpit, and accosting worshippers.⁵ However, I haven't seen any reports of arrests or prosecutions for these "hate" crimes.

This proposed law includes provisions (Section 1) requiring restorative justice programs for persons convicted of "thought" crimes. These programs, including victim awareness education, victim empathy programs, and diversion programs, represent thought re-

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training/re-indoctrination. This provision sounds like something you would see in communist China or the former Soviet Union.

If this proposed law was on the books today, I could be arrested and prosecuted because someone felt harassed, annoyed, or offended by this testimony. I could be facing three years in the state prison and a \$5,000 fine for what I said today.

If time allowed, I could cite many more legitimate concerns regarding the impact of granting special protections to homosexuals. I urge you to vote AGAINST Senate Bill 223.

¹ "The Slippery Slope of Thought Crimes (Hate Crimes) Laws," *Family Research Council Insight* (April 30, 2007). Available at: <http://www.frc.org/get.cfm?i=IS07D01>

² Ibid.

³ Dailey, Timothy J., "Thought Crime ('Hate Crime') Laws: Unnecessary and a Threat to Free Speech," *Family Research Council Special Publication*. Available at: <http://www.frc.org/get.cfm?i=LH07D01>

⁴ "Who's 'Bigoted' Now?," *Family Research Council Washington Update* (November 13, 2008). Available at: <http://www.frc.org/get.cfm?i=WA08K21#WA08K21>

⁵ "Intolerance: Coming Soon to a Church near You?," *Family Research Council Washington Update* (November 12, 2008). Available at: <http://www.frc.org/get.cfm?i=WA08K18#WA08K18>

The Slippery Slope of Thought Crimes (Hate Crimes) Laws

For several years now one of the top priorities of pro-homosexual activists has been passage of a so-called federal "hate crimes" bill. Pro-family groups and those concerned about defending our First Amendment freedoms are alarmed at the prospect of a law in which a person's thoughts or opinions alone--particularly disapproval of homosexual behavior--would be sufficient to turn a local crime into a federal case.

Although the bill's supporters argue that it would target only violent acts, the precedent of imposing one penalty for a person's actions and an additional penalty for their thoughts is a frightening one. In too many jurisdictions where such "Thought Crime" laws have been passed, they have been used to actively punish even those who peacefully express disapproval of homosexual conduct--and, increasingly, those who dare to criticize Islam as well. Following are a few such Thought Crime horror stories, from around the world and even from the United States.

Sweden

Pastor Convicted of "Hate Speech"

Pastor Ake Green, from Borgholm in southern Sweden, was sentenced to a month in jail for "inciting hatred" when he preached against homosexuality and other sexual sins in a 2003 sermon.

Pastor Green had his sermon published in the local newspaper. In it, he compared the sin of Sweden to the sin of the biblical city of Sodom. However, he also ended his sermon speaking of God's grace and with respect for those living in sexual sin: "What these people need, who live under the slavery of sexual immorality, is an abundant grace. It exists. Therefore we will encourage those who live in this manner to look at the grace of Jesus Christ. We cannot condemn these people. Jesus never belittled anyone. He offered them grace." [1]

Homosexuals who read the sermon filed a complaint, and Green was convicted in a district court for "inciting hatred."

A spokesman for Sweden's national gay and lesbian organization, the RFSL, supported Green's conviction: "Hatred and defamation is not to be accepted, just because it is based on religious beliefs or religious scriptures. You have some limits when it comes to the freedom of speech." The RFSL spokesman said one month in jail would not be long enough for Green. It expressed hope that a higher court would impose a longer sentence. [2]

Pastor Green's defense attorney, Percy Bratt, Chairman of the Swedish Helsinki Committee for Human Rights, said: "The very basic question that is raised in this matter is: to what extent it is criminal to teach from the words in the Bible." [3]

"The court must, when applying this provision, make a balancing act between the right of homosexuals and the right of the freedom of religion and the right of the freedom of expression," said Bratt. "And we say that the court has not made a proper such balancing." [4]

Pastor Green said he was not afraid to go to jail: "I am not a criminal, I don't feel like a criminal, but this new law makes us preachers 'as criminals' if we speak up." [5] Thankfully, his conviction was eventually overruled after lawyers argued for his freedom of speech rights under the European Convention on Human Rights.

Australia

Pastors Found Guilty of "Inciting Hatred against Muslims"

Two evangelical pastors, Daniel Scot and Danny Nalliah, are appealing against a decision by a legal tribunal in the state of Victoria which ruled that they had violated the state's controversial

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religious hatred law. The two were found guilty for vilifying Muslims and could go to prison if their appeal is rejected.

Scot and Nalliah had presented a seminar about Islam and its teachings. An Islamic organization covertly sent several members to monitor the event, and subsequently brought a complaint under the Racial and Religious Tolerance Act, claiming the seminar had incited "fear and hatred" against Muslims.

In December 2004, Victorian Civil and Administrative Tribunal (VCAT) judge Michael Higgins ruled that the pastors had incited "hatred against, serious contempt for, or revulsion or severe ridicule of" Muslims, both at the seminar and in articles published in a newsletter and on the Internet.[6]

Teaching at the pastors' seminar, said Higgins, was "essentially hostile, demeaning and derogatory of all Muslim people, their god, Allah, the prophet Mohammed and in general Muslim religious beliefs and practices." Furthermore, a newsletter article included statements "likely to incite a feeling of hatred towards Muslims," the judge said.[7]

In June 2005, Higgins ordered that Scot and Nalliah publicly apologize and pledge never to repeat the comments which he deemed offensive anywhere in Australia or on the Internet.

The pastors vowed afterwards that they would rather go to jail than comply with the VCAT directives.

Becket Fund president Seamus Hasson, whose organization is representing the pastors, said that Higgins overstepped his authority under the law, and that the pastors were "victims of a rogue law that tramples on religious freedoms protected by international law." [8]

Hasson said that the law "makes people afraid to engage in any genuine dialogue about religious beliefs because someone may end up taking them to court just for having an opinion." [9]

Peter Stokes, director of a Christian ethical action group, Salt Shakers, and a vocal opponent of the Racial and Religious Tolerance Act, said Tuesday that if the pastors' appeal failed, "the power given to this or any other minority religion to undermine our democracy through the [Victorian] government's flawed legislation, would be overwhelming." [10]

Stokes said Australian Muslims should not try to use the law to "curtail criticism and discussion of their religion."

Spain

Spain's Roman Catholic primate is being sued by a homosexual organization for suggesting that same-sex marriage would cause the collapse of the country's social security system. The suit was filed after a sermon given by Cardinal Antonio Maria Rouco, in which he said that if "families" based on same-sex couples are given equal status with traditional families, it will result in the systematic destruction of the social security system. Same-sex couples would overburden the state pension system by drawing retirement benefits without having children whose future incomes would make the system solvent. The prelate's comments come as Spain and other European countries face collapse of their pension systems primarily because of low birthrates.

Homosexual activist Carlos Biendicho stated that the primate's words constitute "slander and incitement to discrimination" on the basis of sexual orientation.[11]

Great Britain

Conviction Upheld of Christian Sign-Holder Protesting Homosexuality

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Britain's High Court has ruled that an evangelical Christian arrested for holding a sign protesting homosexuality was "properly convicted" of a criminal offense, despite the fact that he was demonstrating peacefully and was assaulted by onlookers enraged by his sign.

The late Harry Hammond, then aged 69, was protesting in Bournemouth, England, holding a sign that read "Stop Immorality, Stop Homosexuality, Stop Lesbianism," and had a reference to Jesus. According to Hugh Tomlinson, legal advocate for Hammond's executors, about 30 to 40 angry people gathered around Hammond: "There was a struggle," said Tomlinson, "[Hammond] himself was subjected to a number of assaults. Soil was thrown at him and water poured over his head. Someone tried to seize the sign and he was knocked to the ground." Tomlinson stated that "there is no suggestion he assaulted anybody. He was the victim of the assault, not the perpetrator." [12]

Nevertheless, it was Hammond who was arrested for breach of the peace, and eventually convicted of displaying a sign which was "threatening, abusive or insulting within the sight of a person likely to be caused harassment, alarm, or distress." He was fined 300 British pounds (about \$550) and ordered to pay 395 pounds (about \$725) in legal costs.

The High Court ruled that Hammond's behavior "went beyond legitimate protest," and that restricting his right to freedom of expression under the European Convention on Human Rights was justified because his behavior was "not reasonable." It was necessary, the Court ruled, to restrict Hammond's rights in order to prevent public disorder caused by the crowd's angry reaction to his sign. [13]

Tomlinson said the case raises important points regarding freedom of expression and religion: "It is not proper to restrict speech which is not put in a hateful or fighting way, even though it may be offensive to a particular section of the community, and even though it may cause members of the public to react adversely or even violently." [14]

Christian Charged for Distributing "Offensive" Leaflets at Homosexual Rally

Stephen Green, an evangelical Christian, was arrested by the South Wales Minorities Support Unit when he handed out leaflets at a homosexual Mardi Gras event in Cardiff. South Wales police admitted that Green was charged solely because his pamphlets contained quotations from the Bible that are critical of homosexual behavior.

The leaflets were titled "Same-Sex Love - Same-Sex Sex: What does the Bible Say?" and included a series of biblical quotations about homosexual behavior. The tracts urged homosexuals to "turn from your sins and you will be saved." [15]

Green was charged with using "threatening, abusive or insulting words or behavior within the hearing or sight of a person likely to be caused harassment, alarm or distress thereby," in violation to the Public Order Act 1986. [16]

A police spokesman admitted Green had not behaved in a violent or aggressive manner, but was arrested nonetheless because "the leaflet contained Biblical quotes about homosexuality." [17]

Green's arrest was criticized by Christian groups, including Church of England evangelicals, who said it represented "an onslaught on freedom of speech and freedom of religious expression," and Tory members of Parliament, who called it "disturbing." [18]

Green said: "I am astonished that South Wales Police have a special unit dedicated to silencing those who disagree with homosexuality," and which boasts of working closely with homosexual groups.

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The Reverend Rod Thomas, a Plymouth vicar and spokesman for the influential Reform organization representing 500 Church of England clergy, said that "if there was nothing involved here other than the content of the leaflets, the arrest represents an onslaught on freedom of speech and on freedom of religious expression." [19]

"Why gay rights are regarded as more important than freedom of expression I do not know," said Thomas. "There is a real danger that those who have tried to support gay rights for liberal reasons may find themselves responsible for suppressing vital liberties." [20]

A month later, on October 8, 2006, the Telegraph reported that all legal charges against Green were dropped. The Gay Police Association, on the other hand, which published an advertisement accusing Christians of violent assaults against homosexuals that generated more than 40,000 complaints by the public, will reportedly not be prosecuted.

Anglican Bishop Investigated by Police for Criticizing Homosexuality

The Rt. Rev. Dr. Peter Forster, the Bishop of Chester, was threatened with investigation by Cheshire police to determine whether he committed a criminal offense for comments he made in the local newspaper, in which he said that homosexuals could 'reorientate' themselves, and should seek medical help to do so.

The bishop spoke out after spending 18 months helping to write a report for the Church of England on the subject of human sexuality. He told the newspaper that his research convinced him that it was possible for homosexuals to change.

Martin Reynolds, spokesperson for the homosexual Lesbian and Gay Christian Movement, accused the bishop of employing "scandalous" and "offensive" arguments: "These are irresponsible remarks that could inflame latent homophobia," he said, adding that "many people in history who are gentle and sincere have said things that are evil." [21]

Peter Simple, commenting in the Daily Telegraph, warned of the coming "total state," which by means of a "special new category of 'hate crimes' will seek to control our words and even thoughts, to suppress the common, universal instincts of the human race for the sake of a fictitious, unattainable and undesirable ideal of universal equality. In the false name of justice and goodwill for minorities, it will impose a form of slavery." [22]

Primary School Student Investigated for Calling Classmate "Gay"

Police officers were sent to the home of a primary school student in Cheshire following complaints that he had called another student "gay boy." The police said that the boy, named George, was being investigated for a "very serious" homophobic crime for using the comment in an email to the 10-year-old classmate.

The boy's father expressed shock and outrage that two police were detailed to investigate such an insignificant matter: "We are law-abiding citizens who have paid taxes all our lives. I've constantly contacted police about break-ins at my business and never get a suitable response." [23]

The father added: "George was really upset; he thought he was going to be locked up. This just seemed like a huge waste of resources for something so trivial." [24]

Canada

City Councilor Fined for Saying Homosexuality "Not Normal or Natural"

John DeCicco, a city councilor in Kamloops, British Columbia, has been forced to apologize and pay a homosexual activist couple \$1000. In August, homosexual activist couple John Olynick and

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Greg Koll filed a complaint against DeCicco with the human rights commission over remarks he made at the council meeting and repeated in media interviews. In accordance with Catholic teaching, in his remarks he described homosexual acts as "not normal and not natural." In an interview DeCicco explained, "I'm not against lesbian and gay people, but I don't agree that I should have to endorse it." He also said that people can do what they like in the privacy of their own homes, but, he said in reference to gay pride parades, they shouldn't "go out and flaunt it, in front of people who don't necessarily agree." [25] While DeCicco already apologized for his remarks, that apology was not considered part of the settlement. In addition to paying \$1,000 to Olynick and Koll, DeCicco will provide a statement saying his comments were "inappropriate and hurtful to some." The settlement will allow the councilor to avoid a Human Rights Tribunal hearing.

An Italian immigrant who came to Canada at age 15, DeCicco was saddened at the growing threat to freedom of speech: "In this great nation of ours we can express our opinions--and when you can't there's something wrong." [26]

"Human Rights" Complaint Filed against Church Leader

Two homosexual activists have filed complaints with Alberta's human rights commission against Bishop Fred Henry of Calgary because of published remarks critical of homosexual behavior. The complaints claim Bishop Henry attacked homosexuals in remarks he made in a letter published in the local press and on the website of the Roman Catholic Diocese of Calgary.

The activists claim to have been "troubled" by a paragraph in Henry's letter that includes homosexuality along with adultery, prostitution and pornography as forces that "undermine the foundations of the family." [27]

Bishop Henry defended his right to present Catholic teaching: "Freedom of religion and freedom of speech are foundational, and if we're to have an honest debate in society, all the voices have to be heard, including that of the churches." [28]

When reached for comment, Greenfield, a member of the United Church and occasional guest columnist for the Herald, said he respects Henry's right to preach church doctrine, but believes the public letter went too far.

"I'm offended someone in his power would take the intolerant view to incite our politicians to go after a group of people he just doesn't agree with," said Greenfield. "My Bible says I'm not supposed to hate people." [29]

Henry said he doesn't hate homosexuals, just the sexual activity in which they engage, and explained Catholic Church doctrine stipulates only a man and a woman who have been married can engage in sexual intercourse. All sexual activity outside of this traditional definition of marriage is therefore prohibited by the church, according to the bishop.

A spokesman for Egale Canada (Equality for Gays and Lesbians Everywhere) defended the human rights commission for investigating the bishop: "His comments were hateful and harmful, and gay and lesbian people felt personally attacked by those comments. When people feel attacked, they go to the human rights commission, that's why it's there." [30]

Bishop Henry said he would not "apologize" for what he had written, which represented historic Church teaching: "I stand by the letter; I wouldn't change one comma, one iota of that letter."

Link Byfield, chairman of the Edmonton-based Citizens Centre for Freedom and Democracy, writes that Human Rights tribunals are really political correctness panels:

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"Legally speaking discrimination occurs when someone on the protected list feels discriminated against. The law is in their feelings. This principle has been upheld by the Supreme Court.

"It doesn't matter what the facts are, or what the Bible says, or what the Charter of Rights says, only whether [the complainants] feel offended. Once that's on the record, it's all over but setting the compensation." [31]

Canadian Printer Fined for Refusing Work from Homosexual Activists

Scott Brockie, owner of a Toronto print shop, was fined by the Ontario Human Rights Commission for refusing to print materials for a homosexual group. Brockie had done work for clients who were homosexual. However, he refused to print letterhead for the activist group Lesbian and Gay Archives because the organization promoted homosexuality. Brockie suggested other print shops in the area, but the group filed a complaint, accusing the printer of affronting their dignity.

Two weeks later Brockie received a letter from the commission, ordering him to pay the homosexual group \$5,000 in damages and submit a written apology. When he objected, the adjudicator claimed that Brockie was free to express his beliefs in his home or Christian community, but ordered him to provide printing services "to lesbians and gays and to organizations in existence for their benefit." [32] Brockie appealed, but in 1999 the Human Rights Commission's decision was upheld. He then brought his case before the Court of Appeal, which in 2004 ruled against him and affirmed his liability for \$40,000 in legal bills.

Catholic Civil Rights League spokesperson Sean Murphy said: "There is a point beyond which the conduct of judicial officers will bring the administration of justice into disrepute. That point is passed when a Christian printer is ordered to produce business cards and letterhead for an organization that promotes pro-paedophilia essays, is fined \$5,000.00 for having refused to do so, and is left with \$40,000.00 in legal bills for daring to defend himself." [33]

According to Canadian law, if defendants refuse to comply with a board's order, a commission may bring the case before the Canadian justice system. Punishments could then result in jail time.

Saskatchewan Man Fined for Ad Containing Bible Verses about Homosexuality

Hugh Owens of Regina, Saskatchewan, was found guilty of "inciting hatred" by the Human Rights Commission and ordered to pay \$1,500 to three homosexual activists for publishing an ad quoting Bible verses about homosexuality. The ad also included a road sign prohibition symbol of a circle with a slash across it containing a drawing of two men holding hands.

A representative from the homosexual Metropolitan Community Church denomination claimed that the Bible did not condemn homosexuality, and called the views of Roman Catholicism and traditional Judaism "extreme," and said that fundamentalists were "satanic." [34]

The judge conceded that "there is no question that Mr. Owens believed that he was publicly expressing his honestly held religious belief as it related to his interpretation of the Bible." However, she ruled that the Saskatchewan Human Rights Code places a "reasonable restriction on Mr. Owen's right to freedom of expression" because the complainants "were exposed to hatred, ridicule and their dignity was affronted on the basis of their sexual orientation." [35]

Philadelphia

Christians Arrested for Peaceful Protest

In Philadelphia, a group of Christians were arrested on felony counts for peacefully protesting at a gay pride event. The "Philadelphia 11," ranging in age from 17 to 72, were arrested in October

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2004 near the entrance to a homosexual Coming Out Day celebration. According to reports, the group was set upon by gay activists calling themselves "Pink Angels," who physically accosted the protesters.

None of the homosexual activists faced any charges, even though video of the incident shows them acting in a hostile manner towards the peaceful protesters. However, the city was determined to throw the book at the protesters. The counts against the Christian group included "ethnic intimidation" (second-degree felony "hate crime"), "criminal conspiracy" (first-degree felony), "possession of instruments of crime" (first-degree misdemeanor), "reckless endangerment of another person" (second-degree felony), "riot" (third-degree felony), "failure to disperse" (second-degree misdemeanor), "obstructing a highway" (third-degree misdemeanor) and "disorderly conduct" (second-degree misdemeanor).

A federal judge refused to halt the prosecution of the 11 Christians, even when presented with evidence that they had been lawfully and peacefully protesting at the gay pride event. The combined charges could have brought prison sentences of up to 47 years.

After viewing a videotape of the incident, a judge in December dismissed charges against six of the defendants, but four adults and one juvenile still faced prosecution. The case dragged on until late February 2005, when a Court of Common Pleas judge put an end to efforts by the city to prosecute a group of Christian protesters by dismissing all charges against them.

Brian Fahling, senior trial attorney at the American Family Association's Center for Law and Policy, said: "What (the protesters) were doing is what every evangelist does, and that is bringing the message of the gospel of Jesus to those who don't know Christ. There's no crime in that. The real issue is the profound abuse of power that took place in Philadelphia. I have not seen an abuse of power like this in this country ever." [36]

Notes

END NOTES

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